

**MINUTES  
BOARD OF ADJUSTMENT  
PUBLIC HEARING  
OCTOBER 12, 2006**

The Lake County Board of Adjustment met Thursday, October 12, 2006 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

**Board Members Present:**

Howard (Bob) Fox, Jr.  
Darren Eslinger  
Henry Wolsmann, Vice Chairman  
Ruth Gray  
Mary Link Bennett  
Donald Schreiner, Chairman  
Carl Ludecke

**Staff Present:**

Terrie Diesbourg, Director, Customer Services Division  
Anita Greiner, Senior Planner, Customer Services Division  
Anna Ely, Public Hearing Coordinator, Customer Services Division  
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division  
Kimberly Williams, Assistant County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He confirmed Proof of Publication for each case as shown on the monitor.

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**Minutes**

**MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to approve the September 14, 2006 Board of Adjustment Public Hearing minutes, as submitted.**

**FOR:** Fox, Jr., Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED: 6-0**

**Changes to Agenda:**

Regarding BOA#100-06-2, Robert J. and Marcia R. Hamilton/Shane R. Hamilton, Anita Greiner, Senior Planner, stated that the County had received a letter from their attorney this afternoon asking for withdrawal of this case.

Regarding BOA#101-06-1, Anita Greiner, Senior Planner, stated that staff had added a condition in the staff report. The owners are aware of this additional condition regarding the requirement that the parcels must be hooked up to central water. She did this to clarify the recommendation.

Regarding BOA#124-06-2, Anita Greiner, Senior Planner, spoke of a letter that had been received. She was not sure if it was an information letter or a letter of opposition. She asked if the Board would prefer removing it from the consent agenda and placing it on the regular agenda. Chairman Schreiner felt that was the best choice.

Regarding BOA#126-06-1, Anita Greiner, Senior Planner, stated that a letter of opposition for this case has been received so it will be removed from the consent agenda and placed on the regular agenda.

Chairman Schreiner stated that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter. He explained the procedure used in hearing the consent agenda. He stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case.

Ruth Gray came into the meeting.

Withdrawals:

<b>CASE NO.:</b>	<b>BOA#100-06-2</b>	<b>AGENDA NO.:</b>	<b>2</b>
<b>OWNERS:</b>	<b>Robert J. and Marcia R. Hamilton</b>		
<b>APPLICANT:</b>	<b>Shane Hamilton</b>		
<b>CASE NO.:</b>	<b>BOA#107-06-2</b>	<b>AGENDA NO.:</b>	<b>4</b>
<b>OWNER:</b>	<b>Sunderman Groves, Inc./</b>		
<b>APPLICANTS:</b>	<b>Kendall Koehne and Allison Mullany</b>		
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<b>OWNERS:</b>	<b>John and Mary Ann Beatty</b>		
<b>APPLICANT:</b>	<b>John Beatty</b>		
<b>CASE NO.:</b>	<b>BOA#117-06-2</b>	<b>AGENDA NO.:</b>	<b>7</b>
<b>OWNERS/APPLICANTS:</b>	<b>Motie and Patricia Sarjue and Bassudeo and Jankie Sarjoo</b>		
<b>CASE NO.:</b>	<b>BOA#119-06-5</b>	<b>AGENDA NO.:</b>	<b>9</b>
<b>OWNER/APPLICANT:</b>	<b>William and Linda Shave</b>		
<b>CASE NO.:</b>	<b>BOA#123-06-2</b>	<b>AGENDA NO.:</b>	<b>13</b>
<b>OWNER:</b>	<b>Cagan's Crossings, Ltd.</b>		
<b>APPLICANT:</b>	<b>CPH Engineers, Inc.</b>		
<b>CASE NO.:</b>	<b>BOA#129-06-4</b>	<b>AGENDA NO.:</b>	<b>19</b>
<b>OWNERS/APPLICANTS:</b>	<b>Horatio and Laurie Molina</b>		

**MOTION by Mary Link Bennett, SECONDED by Darren Eslinger to accept the withdrawal of BOA#100-06-2, BOA#107-06-2, BOA#108-06-4, BOA#117-06-2, BOA#119-06-5, BOA#123-06-2, and BOA#129-06-4.**

There was no one on the Board nor anyone in the audience who had an objection to this withdrawal request.

**FOR:** Fox, Jr., Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke

**AGAINST:** None

**MOTION CARRIED: 7-0**

**Discussion of Consent Agenda**

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#99-06-5, BOA#101-06-1, BOA#120-06-5, BOA#121-06-5, BOA#122-06-5, BOA#125-06-5, BOA#127-06-5, and BOA#128-06-5. A person in the audience asked that BOA#113-06-5 be removed from the consent agenda and placed on the regular agenda.

Consent Agenda :

<b>CASE NO.:</b>	<b>BOA#99-06-5</b>	<b>AGENDA NO.:</b>	<b>1</b>
<b>OWNERS:</b>	<b>Seburn R. and Sharon M. Woods</b>		
<b>APPLICANT:</b>	<b>John Fennessy</b>		
<b>CASE NO.:</b>	<b>BOA#101-06-1</b>	<b>AGENDA NO.:</b>	<b>3</b>
<b>OWNERS/APPLICANTS:</b>	<b>Benjamin and Janet Crunk</b>		
<b>CASE NO.:</b>	<b>BOA#120-06-5</b>	<b>AGENDA NO.:</b>	<b>10</b>
<b>OWNER/APPLICANT:</b>	<b>Trinity Homes of Central Florida, Inc.</b>		
<b>CASE NO.:</b>	<b>BOA#121-06-5</b>	<b>AGENDA NO.:</b>	<b>11</b>
<b>OWNER/APPLICANT:</b>	<b>Shirley B. Combs</b>		
<b>CASE NO.:</b>	<b>BOA#122-06-5</b>	<b>AGENDA NO.:</b>	<b>12</b>
<b>OWNERS:</b>	<b>Mark and Marcella Anderson</b>		
<b>APPLICANT:</b>	<b>Laurie Giner</b>		
<b>CASE NO.:</b>	<b>BOA#125-06-5</b>	<b>AGENDA NO.:</b>	<b>15</b>
<b>OWNERS:</b>	<b>Robert A. and Karen A. Anderson</b>		
<b>APPLICANT:</b>	<b>Robert A. Anderson</b>		
<b>CASE NO.:</b>	<b>BOA#127-06-5</b>	<b>AGENDA NO.:</b>	<b>17</b>
<b>OWNERS:</b>	<b>Charles M. and Barbara E. Brainerd</b>		
<b>APPLICANT:</b>	<b>James Bader</b>		
<b>CASE NO.:</b>	<b>BOA#128-06-5</b>	<b>AGENDA NO.:</b>	<b>18</b>
<b>OWNER:</b>	<b>Cathy Collins Warren</b>		
<b>APPLICANTS:</b>	<b>Ruth Collins and Mike Warren</b>		

**MOTION by Carl Ludecke, SECONDED by Henry Wolsmann to take the following actions on the above consent agenda:**

<b>BOA#99-06-5</b>	<b>Approval with conditions</b>
<b>BOA#101-06-1</b>	<b>Approval with conditions</b>
<b>BOA#120-06-5</b>	<b>Approval</b>
<b>BOA#121-06-5</b>	<b>Approval with one condition</b>
<b>BOA#122-06-5</b>	<b>Approval with conditions</b>
<b>BOA#125-06-5</b>	<b>Approval with conditions</b>
<b>BOA#127-06-5</b>	<b>Approval with conditions</b>
<b>BOA#128-06-5</b>	<b>Approval with one condition</b>

**FOR:** Fox, Jr., Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke

**AGAINST:** None

**MOTION CARRIED:** 7-0

CASE NO.: BOA#113-06-5

AGENDA NO.: 6

OWNER: Steve Frazier  
APPLICANT: Cy Holley

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor and submitted a flood map as County Exhibit A.

Tommy Henderson stated that he lives at the end of Indian Mound Trail. There are only two houses on Indian Mound Trail. He owns one of them and the Wrights own the other home. Mr. Wright and Mr. Henderson maintain the road. Mr. Henderson said he spent over \$10,000 on the road in 2004 after the hurricanes came through. He felt it may be better if the easement issue is resolved before this variance is granted. When he bought his property, he tried to get easements from Steve Frazier, but Mr. Frazier would not answer his request. Therefore, he has no desire to help Mr. Frazier. He does not want the road changed as considerable money has been spent on it. Indian Mound Trail is a private easement. Ms. Greiner commented that nothing in the records indicates that this easement has been dedicated to the public. In response to Carl Ludecke, Ms. Greiner said that according to the legal description of the property, each property owner actually owns the road.

At the request of Ms. Greiner, Ms. Henderson pointed out on the aerial where he and Linda Wright live.

Linda Wright stated that to the best of her knowledge Steve Frazier has not put any money into this road. The neighbors have spent thousands of dollars maintaining the road.

Charlie Wright, adjacent property owner, said he and his wife bought their property in 1988 or 1989. He agreed that they have spent a considerable amount of money maintaining this road. He was concerned that if this property is built upon, it will push the flood zone onto his property. He felt this would upset the ecosystem.

Ms. Greiner submitted another flood map as County Exhibit B. She pointed out areas where Mr. Frazier could build, adding that Mr. Frazier could not build in the flood zone without coming back to this Board. The Land Development Regulations (LDRs) state that if there is area outside the flood zone, that is where construction must take place. Ms. Greiner submitted a tax map as County Exhibit C.

When Ms. Gray felt this was a matter the property owners must work out themselves, Chairman Schreiner pointed out the condition recommended by staff that the owner of the subject property must submit to staff evidence of a recorded easement to the property. Ms. Gray said she felt it was premature for the case to come before this Board. Ms. Greiner explained that even if this Board approves this variance, Mr. Frazier cannot get a minor lot split unless he shows documentation that he has the right to use Indian Mound Trail or an alternative 50-foot wide easement from a publicly maintained road as access.

In response to Ms. Greiner, Mr. Henderson said they have prescriptive rights to use Indian Mound Trail. The neighbors asked that this variance not be granted as that would be "putting the cart before the horse." There are a number of property owners throughout this area, and they felt this should not be approved before easements are in place. Darren Eslinger reiterated that Mr. Frazier will not be able to move forward without an easement. Ms. Gray felt this case should be continued to a future date in order to work out the easement issue. Mr. Eslinger said the process is already there to make it possible to work this out. Ms. Greiner added that if it cannot be worked out, then a lot split could not be done.

Cy Holley was present to represent Steve Frazier. He said he is trying to purchase the property from Mr. Frazier. Although he does not need an easement from property owners further down the road, he does need an easement from the Aldermans at the beginning of the road, and he has been working on getting that taken care of.

In response to Carl Ludecke, Ms. Greiner said the County map shows this as one 30-acre parcel. When Mr. Frazier bought his property in 1994, he thought it was recognized on the County map as a ten-acre parcel.

**CASE NO.:** BOA#113-06-5**AGENDA NO.:** 6**OWNER:** Steve Frazier  
**APPLICANT:** Cy Holley**PAGE NO.:** 2

However, it was part of the 30-acre parcel. Staff does not have a survey showing whether there are any wetlands on the property; that will be a consideration when the minor lot split request is reviewed.

Mr. Holley gave a map to Ms. Greiner, but she did not show it on the monitor.

When Mr. Eslinger asked if Mr. Frazier could alter the prescriptive easement across his property, Kimberly Williams, Assistant County Attorney, said he could not.

Chairman Schreiner commented that the other property owners have been maintaining this easement over the years. If granted, he would like to see a condition added to the variance requested by Mr. Holley that the road be maintained at least through the subject property. Ms. Greiner said she can add a condition stating that the owner of the property must maintain the easement through the subject parcel. Ms. Holley said he would have no problem working with the other property owners in maintaining the easement.

**MOTION by Ruth Gray, SECONDED by Henry Wolsmann to continue BOA#113-06-5 until the December 14, 2006 Board of Adjustment public hearing in order for the property owners to work out the easement problem.**

**FOR:** Gray**AGAINST:** Fox, Jr., Eslinger, Wolsmann, Bennett, Schreiner, Ludecke**MOTION FAILED:** 1-6

**MOTION by Carl Ludecke, SECONDED by Darren Eslinger to approve the variance request in BOA#113-06-5 with the following conditions:**

1. The owner must provide a document recorded in the public records of Lake County which gives him and his successors the rights to gain access to his parcel through the ingress/egress easement known as Indian Mound Trail or through an alternate easement which leads to his parcel. The alternate easement must be 50 feet wide, connect to a publicly maintained road, and must be in such condition as to allow easy access of emergency vehicles.
2. The ten-acre parcel cannot be split further utilizing any administrative lot split process.
3. If Indian Mound Trail is used, the applicant must share in the cost of maintenance of the road especially along the frontage of his property to ensure good access through his property.

**FOR:** Fox, Jr., Eslinger, Wolsmann, Bennett, Schreiner, Ludecke**AGAINST:** Gray**MOTION CARRIED:** 6-1



CASE NO.: BOA#118-06-5

AGENDA NO.: 8

OWNERS: Joe and Dee Shepherd  
APPLICANT: Jo Leen Cooper

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She stated that if the parcel were split as requested, both parcels would have more than the required 150 feet of road frontage.

Jo Leen Cooper was present to represent the case. She submitted eight pictures (Applicant Exhibit A) of the roads for a distance of one mile. She said all the roads are marked with stop signs and street signs and are well maintained. She read from the deed restrictions which state that the owner of each lot or parcel shall be responsible for the maintenance of all easements adjacent to his or her property. She submitted a copy of the deed restrictions as Applicant Exhibit B as well as two maps (Applicant Exhibit C) showing 2-1/2 acre, five-acre, ten-acre, and 20-acre tracts in the area. Ms. Cooper said the owners have an elderly mother they help to take care of. She submitted two aerials as Applicant Exhibit D.

Dee Shepherd, co-owner of the property, said that in order to take care of her mother, she cannot work a fulltime job. Financially, that would not be possible if they cannot sell one of the newly created parcels.

Ms. Greiner showed Applicant Exhibits B, C, and D on the monitor. At the request of Chairman Schreiner, Ms. Greiner drew the proposed split on one of the Applicant Exhibit D aerials. In response to Ruth Gray, Ms. Greiner submitted and showed on the monitor a road map (County Exhibit A) explaining the roads in the area. Ms. Gray was informed by Ms. Greiner that the easements are dedicated to the public.

Ms. Greiner confirmed Ms. Cooper's statement that there have been no letters of opposition received.

Kay Lawson, adjacent property owner, said she was present at a previous meeting when the allowable minor lot split was done. At that time she was told the parcel could not be split again. She agreed with the staff recommendation of denial. She also has an elderly mother she cares for, and she added onto her home to do so. She lives in the subdivision behind the subject property. In response to Ms. Lawson, Ms. Greiner said an easement would not be created for this parcel; the easement (Winterwillow Lane) is already there. Ms. Lawson was concerned that this could set a precedent for other lot splits of the larger parcels in the area.

Jeannette Harville, property owner in the adjacent subdivision, was also concerned that other splits will occur if this minor lot split is approved.

Ms. Cooper said the proposed lots would access from Winterwillow Lane. No easement through the middle of the parcel is planned. The house on the proposed vacant ten-acre tract would probably be built in the front portion of the parcel so it should not affect those properties in the rear. Since those who spoke in opposition live on 2-1/2 acres, she did not understand the objection to ten-acre tracts.

**MOTION by Ruth Gray, SECONDED by Mary Link Bennett to approve the variance request in BOA#118-06-5 with the condition that the proposed parcels cannot be split further utilizing any administrative lot split process.**

**FOR: Fox, Jr., Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke**

**AGAINST: None**

**MOTION CARRIED: 7-0**

**CASE NO.: BOA#124-06-2****AGENDA NO.: 14****OWNERS: Richard I. and Colleen A. Jemmett****APPLICANT: Bret Jones, Esq.**

Anita Greiner, Senior Planner, noted the letter of concern regarding this variance from the Highland Point Homeowners Association, Inc. There was no one from the Homeowners' Association or from the audience who wished to speak.

Bret Jones was present to represent the case.

Referring to the letter from the Homeowners' Association regarding a neighboring property, Ms. Greiner said the neighboring property was built upon several years ago and has had some problems with flooding. Since then, the flood maps have been redone in that area and the base flood elevation has been raised. The base flood elevation is now at 103 feet. The house is built at 111 feet, eight feet above base flood elevation. She thought the Homeowners' Association may have been worried that if a pool were added, both the pool and house would be flooded. She has spoken with the floodplain administrator at the Lake County Department of Public Works, who felt secure that with the house being eight feet above base flood elevation, there should be no reason to worry about flooding of the pool.

**MOTION by Mary Link Bennett, SECONDED by Ruth Gray to approve the variance request in BOA#124-06-2 with the following conditions:**

**The storm water retention area must be constructed as indicated on the submitted plans and inspected by the Lake County Customer Services Division prior to a final inspection of the swimming pool by the Lake County Building Division.**

**The owners and subsequent owner(s) shall be required to maintain the storm water plan as approved.**

**FOR: Fox, Jr., Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke**

**AGAINST: None**

**MOTION CARRIED: 7-0**

CASE NO.: BOA#126-06-1

AGENDA N O.: 16

OWNERS: Jay and Barbara Samartino  
APPLICANT: Jennifer Samartino

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial and map from the staff report on the monitor. She submitted a map showing the proposed lot split as County Exhibit A. She explained that the only people who would be using the easement in question would be the owners of the two newly created lots in the rear. Staff felt the requested 25-foot width would be sufficient to allow access to those two parcels. The owners could meet all the other conditions of the family density exception process. She noted the one letter of concern.

In response to Darren Eslinger, Ms. Greiner said the easement would be 880 feet long. The 25-foot width would be adequate for emergency vehicle access. One hundred fifty feet of road frontage would be required for each parcel.

Janet Brown said her property borders the subject property on two sides. She said she was not specifically objecting to the Samartinos having the right to do something with their land, but she requested certain provisions be made. She does not want the easement to abut her property. At the request of Chairman Schreiner, she pointed out the location of her property. Ms. Greiner said the easement could be less than 880 feet as long as there is 150 feet of road frontage for each parcel. She also wanted a survey submitted as her fences are set back considerably on her property. She wanted to ensure that setbacks are measured from the property line and not her fence line. Ms. Brown was informed by Ms. Greiner that a survey would be required for the family density exception process. In order to have a septic tank and well, a one-half acre parcel is required. The Health Department will ensure that the proper setbacks are adhered to for the wells and septic tanks. One acre of uplands will be required for each parcel as part of the family density exception criteria. The parcels must be created for ascending or descending family members. Those requirements can be met. The parcels must remain with family members for five years before they can be sold.

Chairman Schreiner explained that this Board could add a condition that the easement must be ended before Ms. Brown's property. Ms. Greiner said the Board could ask the applicant if she would be agreeable to that.

Jennifer Samartino was present to represent the case. She said neither she nor the owners had a problem with the shorter easement.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#126-06-1 with the following conditions:**

**Maintenance of the easement shall be the responsibility of the owners of Lots 2 and 3 in order to ensure access for emergency vehicles.**

**The easement shall stop at least 50 feet from the east side of Lot 3. The easement cannot be extended further to the east in the future.**

**FOR: Fox, Jr., Eslinger, Wolsmann, Gray, Bennett, Schreiner, Ludecke**

**AGAINST: None**

**MOTION CARRIED: 7-0**

**Adjournment**

There being no further business, the meeting was adjourned at 2:20 p.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Donald Schreiner  
Chairman